

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 221011596
)	CDTFA Case ID: 2-832-977
OMIDVAR PRESTIGE JEWELRY, INC.,)	
dba Precious Jewelry, Inc.)	
)	
)	

OPINION

Representing the Parties:

For Appellant:	Mehdi Kohani, Representative
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For Respondent:	Mari Guzman, Tax Counsel III
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For Office of Tax Appeals:	Daniel K. Cho, Tax Counsel IV
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E. LAM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 6561, Omidvar Prestige Jewelry, Inc., dba Precious Jewelry, Inc. (appellant) appeals a decision issued by respondent California Department of Tax and Fee Administration (CDTFA)¹ partially denying appellant’s petition for redetermination of a Notice of Determination (NOD) dated May 4, 2021.² The NOD is for tax of \$23,648, plus applicable interest, for the period July 1, 2016, through June 30, 2019.³ Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether additional relief of interest is warranted.

¹ Sales and use taxes were formerly administered by the State Board of Equalization (board). In 2017, functions of the board relevant to this case were transferred to CDTFA. (Gov. Code, § 15570.22.) For ease of reference, when this Opinion refers to events that occurred before July 1, 2017, “CDTFA” shall refer to the board.

² The NOD was timely issued because on August 20, 2020, appellant signed the latest in a series of waivers of the otherwise applicable three-year statute of limitations, which allowed CDTFA until April 30, 2022, to issue an NOD for the period July 1, 2016, through December 31, 2018. (R&TC, §§ 6487(a), 6488.)

³ Appellant is not disputing the taxable measure. Instead, appellant is only disputing the denial of additional interest relief.

FACTUAL FINDINGS

1. Appellant operates a jewelry store in Tustin, California.
2. Appellant was audited by CDTFA, and CDTFA determined a tax liability of \$23,684, plus accrued interest. Based on this determination, CDTFA issued the May 4, 2021 NOD to appellant.
3. Appellant filed a timely petition for redetermination disputing the NOD. However, appellant subsequently clarified that it was not disputing the tax liability. Instead, appellant only wanted relief of interest due to the COVID-19 pandemic.
4. In its Decision, CDTFA stated that it automatically allowed interest relief for the period March 1, 2020, through June 30, 2020, pursuant to Governor Newsom’s Executive Orders N-25-20, issued on March 12, 2020, and N-40-20, issued on March 30, 2020, which ordered, among other items, relief from interest for certain periods due to the impact of COVID-19. CDTFA denied the remainder of the request for relief of interest and, consequently, denied the remainder of the petition for redetermination.
5. This appeal followed.

DISCUSSION

The law provides that the amount of CDTFA’s determination shall bear interest from the last day of the month following the quarterly period for which the amount should have been paid to the date of payment. (R&TC, § 6482.) Interest may be relieved in only limited circumstances. As relevant here, interest may be relieved where the failure to pay the tax was due to a disaster and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. (R&TC, § 6593.) For these purposes, the term “disaster” is defined to mean a fire, flood, storm, tidal wave, earthquake or similar public calamity. (Cal. Code Regs., tit. 18, § 1703(b)(8).) A taxpayer seeking relief from the interest must file a statement under penalty of perjury setting forth the facts upon which the request for relief is based. (R&TC, § 6593(b).) OTA’s review of a denial of a request for interest relief by CDTFA is an abuse of discretion standard. (*Appeal of Micelle Laboratories, Inc.*, 2020-OTA-290P.) To show an abuse of discretion, a taxpayer must establish that, in refusing to relieve interest, CDTFA exercised its discretion arbitrarily, capriciously, or without sound basis in fact or law. (*Appeal of Eichler*, 2022-OTA-029P.)

Here, appellant filed a statement, signed under penalty of perjury, requesting relief of interest “due to [the] current economic impact of [the] COVID-19 pandemic to [the] company.” CDTFA reviewed this request for relief of interest and allowed interest relief for the period March 1, 2020, through June 30, 2020, in accordance with Governor Newsom’s Executive Orders N-25-20, issued on March 12, 2020, and N-40-20, issued on March 30, 2020, which ordered, as relevant here, relief from interest for certain periods due to the impact of COVID-19. Otherwise, CDTFA determined that appellant has not established that it suffered extraordinary economic loss to warrant additional relief of interest, and CDTFA denied the request for relief of interest.

As previously stated, OTA’s review of a denial of interest relief is one of an abuse of discretion. In its appeal letter, appellant merely stated, “I just ask to drop interest charge....”⁴ Appellant has not presented any evidence or arguments establishing that CDTFA exercised its discretion arbitrarily, capriciously, or without sound basis in fact or law. (See *Appeal of Eichler, supra.*) Therefore, CDTFA did not abuse its discretion by denying the additional interest relief.

⁴ On appeal, appellant also requested to settle the liability and CDTFA responded by stating that the case was not conducive to settlement and requested the appeal to proceed with OTA. Here, OTA lacks statutory authority to engage in settlement negotiations. OTA’s role is to determine the correct tax liability. (See *Appeals of Dauberger, et al.* (82-SBE-082) 1982 WL 11759.) Therefore, the settlement request is not addressed further.

HOLDING

Additional interest relief is not warranted.

DISPOSITION

CDTFA’s action in granting partial interest but otherwise denying the petition for redetermination is sustained.

DocuSigned by:
Eddy Y.H. Lam
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Eddy Y.H. Lam
Administrative Law Judge

We concur:

DocuSigned by:
Josh Lambert
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Josh Lambert
Administrative Law Judge

DocuSigned by:
Andrew J. Kwee
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Andrew J. Kwee
Administrative Law Judge

Date Issued: 7/20/2023